IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN DALE PREACHER,)
Plaintiff,) Civil Action No. 2:19-1207
vs. CORRECT CARE SERVICES, et al.,	United States District JudgeCathy Bissoon
Defendants.	United States Magistrate Judge Richard A. Lanzillo

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(l)(A) and (B), and Local Rule of Civil Procedure 72.

On January 31, 2022, Judge Lanzillo issued a Report (Doc. 276) recommending that the Motion for Summary Judgment filed by Defendant, Dr. Timothy Kross, against *pro se* Plaintiff John Dale Preacher (Doc. 233), be granted. Service of the Report and Recommendation ("R&R") was made on the parties, and Plaintiff has filed Objections (Doc. 278).

After a *de novo* review of the Motion for Summary Judgment, the Response in Opposition and all related briefing and exhibits, together with the R&R and the Objections thereto¹, Defendant Kross's Motion for Summary Judgment will be granted, and Judge Lanzillo's R&R will be adopted as the opinion of the district court.

Plaintiff also has filed a Motion "for Sanctions and Default Judgment" (Doc. 280)

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¹ In his Response to Plaintiff's Objections (Doc. 279), Defendant Kross argues that the Court should disregard the Objections as untimely because Plaintiff filed them on April 1, 2022, about six weeks after the February 14, 2022 deadline. Plaintiff, however, states that he did not receive a copy of the R&R until March 28, 2022. (Doc. 278, at 1, 5). Based on this representation, and giving Plaintiff the benefit of the doubt, the Court has considered the Objections on their merits.

asking that the Court enter a default judgment against the DOC Defendants for failure to file summary judgment motions. This Motion also will be denied. Federal Rule of Civil Procedure 56 permits parties to file motions for summary judgment; it does not require them to do so. See Fed. R. Civ. P. 56(a) ("A party may move for summary judgment" (emphasis added)).

Accordingly, it hereby is ORDERED that Defendant Timothy Kross's Motion for Summary Judgment (Doc. 233) is GRANTED; all remaining claims against Defendant Timothy Kross are dismissed, with prejudice; and the Report and Recommendation (Doc. 276) is adopted as the Opinion of the District Court. It is FURTHER ORDERED that Plaintiff's Motion for Sanctions and Default Judgment (Doc. 280) is DENIED.

IT IS SO ORDERED.

June 14, 2022

s\Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification): All Counsel of Record

cc (via U.S. Mail):

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